

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY)	
CORP. FOR A CERTIFICATE OF CONVENIENCE)	CASE NO.
AND NECESSITY TO APPLY FOR A FRANCHISE)	2023-00044
FROM THE CITY OF HAWESVILLE)	

ORDER

On February 10, 2023, Kenergy Corp (Kenergy) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on a franchise offered by the city of Hawesville, Kentucky, for electric transmission and distribution service. Kenergy provided a copy of Ordinance No. 01-23, which authorized granting a franchise for the sale and distribution of electricity within the city of Hawesville boundary.¹ Ordinance No. 01-23 was approved on March 14, 2023, and public notice of the sale of franchise was published on February 9, 2023.²

Sections 163 and 164 of the Kentucky Constitution and KRS Chapter 96 authorize municipal corporations to require public utilities, including non-governmental providers of electricity within the municipal corporations' boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on reasonable and necessary conditions. Under the provisions of KRS 278.020(5), no utility may apply for a franchise from any governmental agency until it has obtained a CPCN from this

¹ Supplement to Application (filed Mar. 15, 2023), Exhibit A.

² Notice of Filing (filed Apr. 12, 2023), Exhibit D; Supplemental Notice of Filing (filed Apr. 12, 2023), at unnumbered page 2.

Commission based on our finding that there is a need and demand for the service sought to be rendered.

In light of the city of Hawesville's ordinance creating a franchise for electric transmission and distribution service, the Commission determines that there is evidence of a need and demand for electric transmission and distribution service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchise offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

The Commission directs Kenergy to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. Kenergy is granted a CPCN that authorizes it to bid on a franchise offered by the city of Hawesville, Kentucky, for electric transmission and distribution service.
2. If Kenergy is not the successful bidder, Kenergy shall file with the Commission, within ten days of the award of the franchise at issue, a written notice stating that Kenergy was not the successful bidder.
3. If Kenergy is the successful bidder, Kenergy shall file with the Commission, within ten days of the award of the franchise at issue, a copy of the executed franchise agreement and a statement disclosing the amount of the initial franchise fee.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

4. If Kenergy is the successful bidder, Kenergy shall file with the Commission, within ten days of an increase or decrease in the amount of the initial franchise fee set forth in the franchise agreement, documentation setting forth the revised fee.

5. Any documents filed pursuant to ordering paragraphs 2, 3, or 4 of this Order shall reference the number of this case and shall be electronically submitted via the Commission's electronic Tariff Filing System.

6. This Order shall not be construed as granting a CPCN to construct utility facilities in said city.

7. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


Executive Director

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